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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,590	05/02/2001	Reed Burkhardt	BURK.002US1	6510

7590 07/07/2008
WALT FROLOFF
273D SEARIDGE ROAD
APTOS, CA 95003

EXAMINER

NANO, SARGON N

ART UNIT	PAPER NUMBER
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2157

MAIL DATE	DELIVERY MODE
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07/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. This action is responsive to RCE filed on April 17, 2008. claims 1 – 28 are pending examination.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I.* Claims 1 – 18, drawn to automated negotiation and provisioning method for broadcast, classified in class 709, subclass 225.
 - II.* Claims 19 – 28, drawn to a method for aggregating system users into communications community, or other focal area, classified in class 370, subclass 310.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions *I* and *II* are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the inventions as claimed Invention *I* is directed to automated negotiation and provisioning method for broadcast, classified in class 709, subclass 225 and invention *II* is directed to a method for aggregating system users into communications community, or other focal area classified in class 370 , subclass 310.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above

and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement

will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Mr. Walt Froloff (Registration No 52,923) on June 25 to request an oral election to the above restriction requirement, but did not result in an election being made.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARGON N. NANO whose telephone number is (571)272-4007. The examiner can normally be reached on 8 hour.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sargon Nano

June 25, 2008

/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157